GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA

UNSTARRED QUESTION NO:2765
ANSWERED ON:05.12.2007
BANNING OF PRE NATAL DIAGNOSTIC TEST
Athawale Shri Ramdas

Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether the Union Government has in compliance of the instant order of the Supreme Court of India, issued directives to all the States to ban pre-natal diagnostic test and to seize all those unregistered and unlicensed ultrasound machines being used in the clinics; and

(b) if so, the details of the action taken by the Governments in this regard?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH & FAMILY WELFARE (SMT.PANABAKA LAKSHMI)

(a) & (b) Having regard, inter alia, to the directions of the hon'ble Supreme Court of India in Writ Petition (Civil) No.301 of 2000 − CEHAT & Ors. Vs. UOI & Ors., The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and the Rules framed thereunder were amended as 'Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994' (PC & PNDT Act, 1994) and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Rules, 2003.

In terms of the Amended Act and the Rules, sex-selection is prohibited. Similarly, sale or hiring, etc., ultrasound machine or any other equipment capable of detecting sex of the foetus to any Genetic Counselling Centre, Genetic Clinic or Genetic Laboratory or any other person not registered under the Act is prohibited, vide Section 3, 3A, 3B, 4, 5 and 6 of the Act and 3A of the Rules.

Under Section 30 of the Act, Appropriate Authorities are empowered with the powers of a Civil Court for search, seizure and sealing the machines, equipments and records of the violators of law including sealing of premises of the Genetic Counseling Centre, Genetic Clinic, Genetic Laboratory or any other place found flouting the norms and commissioning of witnesses. It has been made mandatory to maintain proper records in respect of the use of ultrasound machines and other equipments capable of detection of sex of foetus and also in respect of tests and procedures that may lead to pre-conception selection of sex.

Stringent punishments are prescribed in the Act as under so as to serve as a deterrent for minimising violations of the Act, vide Section 22 to 28 of the Act. :

Imprisonment up to 3 years and fine up to Rs. 10,000.

For any subsequent offences, he/she may be imprisoned up to 5 years and fined up to Rs. 50,000 / 100,000.

The name of the registered medical practitioner is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed off.

As on 23.11.2007, there were 403 ongoing cases in the Courts/Police for various violations of the law. 132 ultrasound machines were sealed and seized for violation of the law. Though most of the cases relate to non-registration of the centre/clinic, 65 cases relate to determination and disclosure of the sex of the foetus. 37 cases have been filed against people who have given advertisement about facilities of pre-conception/pre-natal sex selection. State governments are requested to take effective measure for speedy disposal of ongoing cases.